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**SENATE BILL 8**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Roman M. Maes

**AN ACT**

**RELATING TO TAXATION; ENACTING THE WATER TECHNOLOGY ASSISTANCE  
TAX CREDIT ACT; PROVIDING FOR TECHNICAL ASSISTANCE BY NATIONAL  
LABORATORIES TO RESOLVE WATER ISSUES IN NEW MEXICO.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. SHORT TITLE.--This act may be cited as the  
"Water Technology Assistance Tax Credit Act".**

**Section 2. PURPOSE.--The purpose of the Water Technology  
Assistance Tax Credit Act is to:**

**A. assist residents, communities, governments and  
businesses in New Mexico to resolve water issues by using the  
technology and expertise of the national laboratories;**

**B. encourage a national laboratory to form  
strategic partnerships with New Mexico entities to apply  
national laboratory technologies and expertise to support its**

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1 partners in resolving water issues;

2 C. leverage water programs at the national  
3 laboratories for the direct benefit of New Mexico's residents;

4 D. sustain economic development and the quality of  
5 life in New Mexico; and

6 E. assist water providers, managers and users in  
7 New Mexico in developing and implementing new technologies that  
8 will create new water sources through treating impaired water,  
9 increasing water-use efficiency and improving water management.

10 Section 3. DEFINITIONS. -- As used in the Water Technology  
11 Assistance Tax Credit Act:

12 A. "contractor" means an entity that may enter into  
13 a contract with a national laboratory to support the national  
14 laboratory in providing assistance in resolving water issues in  
15 New Mexico and that is:

16 (1) an individual or legal entity, including a  
17 gas, water or electric utility owned or operated by a county,  
18 municipality or other subdivision of the state; or

19 (2) a national, federal, state or tribal  
20 governmental unit, subdivision or agency;

21 B. "council" means the water assistance advisory  
22 council;

23 C. "department" means the taxation and revenue  
24 department;

25 D. "national laboratory" means a prime contractor

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1 designated as a national laboratory by act of congress that is  
2 operating a taxable entity in New Mexico;

3 E. "partner" means an individual or a legal entity;  
4 or a unit, a subdivision or an agency of the state or of a  
5 tribal government:

6 (1) that is located in New Mexico;

7 (2) that uses, provides, administers or  
8 impacts water resources in the state; and

9 (3) that has entered into an agreement with a  
10 national laboratory to receive water-related assistance;

11 F. "qualified expenditure" means money expended to  
12 provide water-related assistance to a partner by a national  
13 laboratory or one of its contractors involved in the water  
14 assistance program;

15 G. "tribal" means of or pertaining to an Indian  
16 nation, tribe or pueblo located wholly or partially in New  
17 Mexico; and

18 H. "water assistance program" means all activities  
19 entered into to provide water-related assistance to develop new  
20 water sources to partners by a national laboratory or its  
21 contractors.

22 Section 4. WATER ASSISTANCE PROGRAM --To receive a tax  
23 credit pursuant to the Water Technology Assistance Tax Credit  
24 Act, a national laboratory shall:

25 A. establish a water assistance program, identify

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1 partners and provide water-related assistance;

2 B. create funding and financial reporting  
3 mechanisms for the water assistance program;

4 C. create a separate account for each partner  
5 involved in the water assistance program with the national  
6 laboratory or its contractors;

7 D. consult with the council to seek advice on  
8 improvements in the operation of the national laboratory's  
9 water assistance program for the benefit of the state or of  
10 local or tribal governments or communities;

11 E. establish a methodology to use contractors as  
12 necessary to provide water-related assistance to partners;

13 F. produce a report within thirty days of any  
14 calendar quarter, to be provided to the department, containing:

15 (1) the name and address, including the  
16 county, of each partner assisted during the calendar quarter;

17 (2) certification from the small business that  
18 the small business could not receive the same service for a  
19 reasonable cost from private industry;

20 (3) documentation by the national laboratory  
21 that it exerted due diligence to determine that the small  
22 business assistance is not otherwise available to the small  
23 business at a reasonable cost from private industry; and

24 (4) the qualified expenditures attributed to  
25 each partner;

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1 (5) a description of the water-related  
2 assistance provided or received; and

3 (6) the name of the provider of the water-  
4 related assistance to the partner; and

5 G. produce by June of each year an annual report on  
6 the activities of the preceding calendar year for an  
7 appropriate legislative interim committee that:

8 (1) identifies the partners involved in the  
9 water assistance program, including:

10 (a) the water-related assistance  
11 provided to those partners;

12 (b) the projects initiated, continuing  
13 and completed; and

14 (c) an assessment of the benefits  
15 derived by the state or by local or tribal governments or  
16 communities due to the water-related assistance provided; and

17 (2) includes the expenditures of the water  
18 assistance program by the qualified taxpayer or its contractors  
19 and the amount of tax credit claimed by the qualified taxpayer  
20 for the calendar year covered in the report.

21 Section 5. WATER-RELATED ASSISTANCE--PROVISION--  
22 PURPOSES.--Water-related assistance shall be provided to create  
23 new sources of water through treating impaired water,  
24 increasing water-use efficiency or improving water management  
25 and shall be either:

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1           A. technical assistance, including information  
2 sharing, analysis, laboratory testing and educational outreach,  
3 provided to a partner that is implementing or planning to  
4 implement technologies to create new sources of water; or

5           B. technology development and demonstration  
6 assistance provided to a partner, including field testing and  
7 computer-generated evaluation, model development, engineering  
8 analysis and design, that facilitate maturation and  
9 demonstration of emerging technologies that have high potential  
10 for creation of new sources of water within New Mexico.

11           Section 6. TAX CREDIT AGAINST GROSS RECEIPTS TAXES--  
12 RATE-- AGGREGATE LIMIT.--

13           A. A tax credit to be known as the "water  
14 technology tax credit", in an amount equal to the qualified  
15 expenditures made to provide water-related assistance by a  
16 qualified taxpayer, may be claimed against the amounts owed  
17 pursuant to the Gross Receipts and Compensating Tax Act by the  
18 qualified taxpayer; provided that:

19                   (1) the water-related assistance is rendered  
20 to a partner responsible for water located in New Mexico;

21                   (2) the qualified expenditures have been made  
22 prior to the application for the tax credit;

23                   (3) the qualified expenditures do not exceed  
24 the aggregate limit set forth in Subsection B of this section  
25 for the calendar year;

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(4) the tax credit for the qualified expenditure is taken:

(a) against gross receipts and compensating taxes paid in the calendar year in which the water-related assistance is provided; and

(b) on each month's gross receipts and compensating tax return filed by the national laboratory against gross receipts of compensating taxes due to the state and shall not impact a local government tax distribution;

(5) the partner certifies to the taxpayer that the water-related assistance provided is not otherwise available at a reasonable cost through private industry;

(6) the qualified expenditures for the water-related assistance described in Subsection A of Section 5 of the Water Technology Assistance Tax Credit Act are limited to one hundred thousand dollars (\$100,000) per partner for a calendar year; and

(7) the qualified expenditures for the water-related assistance described in Subsection B of Section 5 of the Water Technology Assistance Tax Credit Act are limited to four hundred thousand dollars (\$400,000) per partner for a calendar year.

B. The total aggregate amount of tax credits claimed in a calendar year by a qualified taxpayer pursuant to the Water Technology Assistance Tax Credit Act shall not exceed

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1 seven million dollars (\$7,000,000).

2 Section 7. QUALIFIED EXPENDITURES. -- A qualified  
3 expenditure is:

4 A. money expended to provide water-related  
5 assistance to a partner by a national laboratory or one of its  
6 contractors involved in a water assistance program; and

7 B. limited to:

8 (1) employee salaries and wages, fringe  
9 benefits and employer payroll taxes;

10 (2) administrative costs related to the  
11 provision of water-related assistance totaling no more than  
12 seventy-five percent of the qualified expenditures made  
13 pursuant Paragraph (1) of this subsection;

14 (3) in-state travel expenses, including per  
15 diem and mileage at the internal revenue service standard  
16 rates;

17 (4) supplies and services of contractors  
18 related to the provision of water-related assistance; and

19 (5) expenses related to operation of the  
20 council.

21 Section 8. COUNCIL-- CREATION-- MEMBERSHIP-- ADMINISTRATIVE  
22 SUPPORT-- CHAIR. --

23 A. The "water assistance advisory council" is  
24 created.

25 B. The council shall provide advice to assist

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1 national laboratories in:

2 (1) identification of water needs of the state  
3 or local or tribal governments or communities;

4 (2) identification of partners within the  
5 state that would benefit from receiving water-related  
6 assistance;

7 (3) review of the annual water assistance  
8 program status report prior to its presentation to an  
9 appropriate legislative interim committee; and

10 (4) development for the water assistance  
11 program of a five-year plan, to be updated annually, that  
12 provides long-term guidance for the water assistance program  
13 and ensures water-related assistance that is beneficial to the  
14 state or to local or tribal governments or communities.

15 C. Membership of the council shall consist of one  
16 representative appointed by each of the following:

17 (1) the secretary of energy, minerals and  
18 natural resources;

19 (2) the state engineer;

20 (3) the secretary of environment;

21 (4) the secretary of economic development;

22 (5) the director of the New Mexico department  
23 of agriculture;

24 (6) the director of the New Mexico rural water  
25 users association;

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1 (7) the executive director of the New Mexico  
2 municipal league;

3 (8) the executive director of the New Mexico  
4 farm and livestock bureau;

5 (9) the executive director of the New Mexico  
6 oil and gas association;

7 (10) the director of the New Mexico water  
8 resources research institute;

9 (11) the president of the university of New  
10 Mexico;

11 (12) the president of the New Mexico institute  
12 of mining and technology; and

13 (13) the president of New Mexico state  
14 university.

15 D. In addition to the council members identified in  
16 Subsection C of this section, the governor shall appoint four  
17 council members who are selected from a list submitted by the  
18 leadership of the Indian nations, tribes and pueblos located in  
19 New Mexico.

20 E. In addition to the council members appointed  
21 pursuant to Subsections C and D of this section, by majority  
22 vote of the council, two additional council members may be  
23 added representing water-related entities not otherwise  
24 represented.

25 F. Administrative support shall be provided for the

1 council by personnel of the national laboratory initiating the  
2 water assistance program.

3 G. The chair of the council shall be the director  
4 of the New Mexico water resources research institute. The  
5 council shall meet at the call of the chair but not less than  
6 two times per calendar year.

7 Section 9. ADMINISTRATION OF ACT.--The department shall  
8 administer the Water Technology Assistance Tax Credit Act  
9 pursuant to the Tax Administration Act.

10 Section 10. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2003.

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